



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

In re Application of
Tien-J Bao et al.
Application No. 10/808,801
Filed: March 25, 2004
Attorney Docket No. TS02-262CIP
(24061.480)

COPY MAILED

FEB 28 2005

OFFICE OF PETITIONS

: DECISION DISMISSING
: PETITION

This is a decision on the petition filed January 27, 2005 (certificate of mail date January 24, 2005), requesting that the above-identified application be accorded a filing date of March 25, 2004, with Page 21 of the specification as a part of the original disclosure.

After the application was filed, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Items in a Nonprovisional Application on November 24, 2004, stating that the application had been accorded a filing date of March 25, 2004, but that Page 21 of the specification (description and claims) appeared to have been omitted from the application.

In response, the present petition was filed. Petitioners argue that a complete application was present on March 25, 2004, for filing date purposes. Petitioners point to their postcard receipt as evidence that Page 21 of the specification was among the application papers filed on March 25, 2004.

The argument and evidence supplied with the petition have been carefully considered, but are not persuasive. The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503).

Unfortunately, in this case, petitioners' postcard receipt fails to properly itemize the components allegedly filed in this application. The postcard receipt does not itemize the number of pages of specification filed, or a specification at all. A postcard receipt

will not serve as prima facie evidence of receipt in the USPTO of any items which are not properly itemized and identified.

The petition is **DISMISSED**.

The copy of Page 21 of the specification supplied with the present petition will not be used for processing or examination, but will be retained in the application file.

Petitioner may file Page 21 as a preliminary amendment. If Page 21 is filed as a preliminary amendment, the amendment will be reviewed for new matter.

Effective November 22, 2004, the petition fee has been increased from \$130.00 to \$400.00. See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004 Petitioner's deposit account will be charged in the amount of \$270. As this petition was necessitated by applicants' filing error rather than an error on the part of the Office, the petition fee will not be refunded.

This matter is being referred to the Office of Initial Patent Examination for further processing with a filing date of March 25, 2004, using the application papers filed on that date and not page 21 of the specification submitted on petition.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions